



Sen. Dale A. Righter

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1 AMENDMENT TO SENATE BILL 2169

2 AMENDMENT NO. _____. Amend Senate Bill 2169 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Medicaid Program Rescue Act.

6 Section 5. Legislative findings and intent. The General
7 Assembly finds that, for the economic and social benefit of all
8 residents of the State, it is important to ensure that all
9 eligible Medicaid recipients have access to quality medical
10 care. It is vital to the financial health of the State and to
11 the State's Medicaid program that the dramatically increasing
12 liabilities of the State-funded healthcare system be brought
13 under control.

14 The legislature finds that the state of the current
15 Medicaid program is unacceptable. Program liabilities are
16 growing at an unsustainable rate, providers are forced to wait

1 months for chronically late reimbursements, reimbursement
2 levels in some areas are inadequate, hospital emergency rooms
3 are utilized too often for non-emergency treatment, and
4 Medicaid patients in many areas suffer from a lack of adequate
5 access to services.

6 Costs associated with the Illinois Medicaid program have
7 grown by over 50% in the last 7 years. The State's taxpayers
8 cannot sustain 7% annual growth to a program that is reaching
9 \$10,000,000,000 in costs annually. This dramatic increase has
10 led to unprecedented delays in bill payments, causing much
11 hardship to medical service providers and those they serve. As
12 a result, access to quality healthcare has been compromised for
13 low-income individuals and families, making it increasingly
14 difficult in many areas of the State for patients to access
15 Medicaid services.

16 This Act requires the Department of Healthcare and Family
17 Services to implement reforms and practices designed to make
18 the program more efficient, improve the quality of care
19 provided to enrollees, mandate that providers are paid in a
20 timely fashion, and generate significant savings to ensure the
21 program is affordable to the taxpayers of Illinois.

22 To achieve savings, it is directed that the Medicaid
23 program shall experience no growth in gross liabilities for
24 fiscal year 2010, and no more than 3% annual gross liability
25 growth in fiscal year 2011 or 2012. This growth rate is
26 approximately equal to the average growth in gross liability

1 for the 10-year period prior to fiscal year 2004.

2 The Department is directed to begin implementation of cost
3 saving reforms as soon as possible upon implementation of this
4 Act. However, no reforms that will cause the loss of federal
5 stimulus funding under the American Recovery and Reinvestment
6 Act of 2009 shall be implemented prior to January 1, 2011.

7 The legislature finds that the current administration of
8 the Department has focused primarily on expansion of programs,
9 with less emphasis on managing the Medicaid program to keep
10 costs down and to prevent payment delays to providers. Further,
11 the Department has clearly shown a disregard in certain
12 instances in the past for the will of the legislature, namely,
13 in expanding the FamilyCare program without legislative
14 approval. For that reason, the administration of the Department
15 is viewed as a potential impediment to the successful
16 implementation of this Act.

17 Section 10. Definitions. In this Act:

18 "Department" means the Department of Healthcare and Family
19 Services.

20 "Medicaid program" or "Medicaid" means the program of
21 medical assistance under Article V of the Illinois Public Aid
22 Code.

23 Section 15. Savings achievement. In order to achieve
24 savings and reduce the growth in the Medicaid program, the

1 Department, among other measures:

2 (1) May implement a broad risk-based managed care
3 program.

4 (2) May employ other strategies to reduce the frequency
5 of costly emergency room visits, especially for minor
6 health issues.

7 (3) May reevaluate the policy of providing
8 "presumptive eligibility" to Medicaid applicants whose
9 eligibility status has not been verified.

10 (4) May utilize income verification processes designed
11 to more accurately identify annual income in order to
12 ensure that those recipients receiving Medicaid benefits
13 are qualified to receive those benefits under the
14 eligibility guidelines.

15 (5) May apply asset tests to any Medicaid programs to
16 which asset tests do not currently apply.

17 (6) May increase the frequency of the process of
18 re-determining eligibility status for program participants
19 and may contract with a private entity for this purpose.

20 (7) May increase cost-sharing requirements of
21 participants.

22 (8) May pursue a comprehensive drug purchasing
23 agreement with all other State, county, and local agencies.

24 (9) May pursue a global federal waiver.

25 (10) May enhance efforts to reduce fraud and abuse
26 through the Office of the Inspector General.

1 (11) May reduce benefits for any participants in any
2 Medicaid program not covered by federal matching dollars.
3 Reducing benefits for any participants in the program
4 should be considered as a last resort after other savings
5 options have been implemented.

6 Section 20. Liability growth. Savings measures, including
7 some measures from Section 10 of this Act, shall be taken to
8 achieve no growth in gross Medicaid liabilities for fiscal year
9 2010 and a maximum gross Medicaid liability growth of 3%
10 annually for fiscal years 2011 and 2012.

11 Section 25. Appropriations limitations. Appropriations for
12 the fiscal year 2010 Medicaid program shall be limited to no
13 increase over the enacted FY09 appropriation as included in
14 Public Act 95-734, Article 10, Section 10. Any FY09
15 supplemental appropriations shall be excluded in calculating
16 the FY2010 appropriation. Appropriations for the fiscal year
17 2011 Medicaid program shall be limited to a maximum increase of
18 3% over the fiscal year 2010 enacted appropriation for the
19 Medicaid program. Appropriations for the fiscal year 2012
20 Medicaid program shall be limited to a maximum increase of 3%
21 over the fiscal year 2011 enacted appropriation for the
22 Medicaid Program.

23 Section 30. Liability cap. The amount of Medicaid

1 liabilities carried from one fiscal year to the next under
2 Section 25 of the State Finance Act is capped at \$650,000,000.
3 The Department shall not exceed a maximum \$650,000,000 in
4 Medicaid liabilities under Section 25 of the State Finance Act
5 at the end of any fiscal year beginning June 30, 2009.

6 Section 35. Prohibitions. The Department is expressly
7 prohibited from implementing rate reductions for long term care
8 facilities to achieve savings. The Department is prohibited,
9 until January 1, 2011, from implementing measures that would
10 result in the loss of federal stimulus funding.

11 Section 40. Expansion moratorium. From the effective date
12 of this Act until June 30, 2012, the Department is prohibited
13 (i) from expanding eligibility for any existing Medicaid
14 program, including FamilyCare, or from creating any new
15 Medicaid program and (ii) from expanding eligibility for the
16 Covering ALL KIDS Health Insurance Program.

17 Section 45. Director termination. The Director of
18 Healthcare and Family Services holding that position on May 14,
19 2009 is terminated on July 1, 2009, by operation of law, and
20 shall thereafter no longer hold that position or any other
21 employment position with the State of Illinois. The Governor is
22 directed to take whatever action is necessary to effectuate
23 this termination.

1 Section 50. Rulemaking. Rules to implement this Act in its
2 entirety shall be promulgated and adopted by the Department.
3 This rulemaking authority is conditioned on the rules being
4 promulgated and adopted in accordance with all provisions of
5 the Illinois Administrative Procedure Act and all rules and
6 procedures of the Joint Committee on Administrative Rules; any
7 purported rule not so promulgated or adopted, for whatever
8 reason, is unauthorized.

9 Section 55. Reports to General Assembly. On June 30, 2009
10 or 30 days after the effective date of this Act, whichever is
11 later, and on every April 15th thereafter, the Department shall
12 provide the General Assembly with a report on liability
13 projections for the next fiscal year. The Department shall
14 report to the General Assembly by July 31 of each calendar year
15 on the measures implemented and the savings achieved from each
16 measure in the fiscal year just concluded.

17 Section 60. Federal funding. No reforms implemented by the
18 Department shall be enacted if those reforms cause a loss in
19 funding under the federal American Recovery and Reinvestment
20 Act of 2009. Any cost saving measures delayed as a result of
21 the federal Act may be enacted upon expiration of that Act.

22 Section 90. The State Finance Act is amended by changing

1 Section 25 as follows:

2 (30 ILCS 105/25) (from Ch. 127, par. 161)

3 Sec. 25. Fiscal year limitations.

4 (a) All appropriations shall be available for expenditure
5 for the fiscal year or for a lesser period if the Act making
6 that appropriation so specifies. A deficiency or emergency
7 appropriation shall be available for expenditure only through
8 June 30 of the year when the Act making that appropriation is
9 enacted unless that Act otherwise provides.

10 (b) Outstanding liabilities as of June 30, payable from
11 appropriations which have otherwise expired, may be paid out of
12 the expiring appropriations during the 2-month period ending at
13 the close of business on August 31. Any service involving
14 professional or artistic skills or any personal services by an
15 employee whose compensation is subject to income tax
16 withholding must be performed as of June 30 of the fiscal year
17 in order to be considered an "outstanding liability as of June
18 30" that is thereby eligible for payment out of the expiring
19 appropriation.

20 However, payment of tuition reimbursement claims under
21 Section 14-7.03 or 18-3 of the School Code may be made by the
22 State Board of Education from its appropriations for those
23 respective purposes for any fiscal year, even though the claims
24 reimbursed by the payment may be claims attributable to a prior
25 fiscal year, and payments may be made at the direction of the

1 State Superintendent of Education from the fund from which the
2 appropriation is made without regard to any fiscal year
3 limitations.

4 Medical payments may be made by the Department of Veterans'
5 Affairs from its appropriations for those purposes for any
6 fiscal year, without regard to the fact that the medical
7 services being compensated for by such payment may have been
8 rendered in a prior fiscal year.

9 Medical payments may be made by the Department of
10 Healthcare and Family Services and medical payments and child
11 care payments may be made by the Department of Human Services
12 (as successor to the Department of Public Aid) from
13 appropriations for those purposes for any fiscal year, without
14 regard to the fact that the medical or child care services
15 being compensated for by such payment may have been rendered in
16 a prior fiscal year; and payments may be made at the direction
17 of the Department of Central Management Services from the
18 Health Insurance Reserve Fund and the Local Government Health
19 Insurance Reserve Fund without regard to any fiscal year
20 limitations. Notwithstanding any other provision of this
21 Section, the amount of liabilities for medical payments by the
22 Department of Healthcare and Family Services carried from one
23 fiscal year to the next under this Section may not exceed
24 \$650,000,000. Beginning June 30, 2009, the amount of
25 liabilities for medical payments by the Department of
26 Healthcare and Family Services at the end of any fiscal year

1 may not exceed \$650,000,000.

2 Medical payments may be made by the Department of Human
3 Services from its appropriations relating to substance abuse
4 treatment services for any fiscal year, without regard to the
5 fact that the medical services being compensated for by such
6 payment may have been rendered in a prior fiscal year, provided
7 the payments are made on a fee-for-service basis consistent
8 with requirements established for Medicaid reimbursement by
9 the Department of Healthcare and Family Services.

10 Additionally, payments may be made by the Department of
11 Human Services from its appropriations, or any other State
12 agency from its appropriations with the approval of the
13 Department of Human Services, from the Immigration Reform and
14 Control Fund for purposes authorized pursuant to the
15 Immigration Reform and Control Act of 1986, without regard to
16 any fiscal year limitations.

17 Further, with respect to costs incurred in fiscal years
18 2002 and 2003 only, payments may be made by the State Treasurer
19 from its appropriations from the Capital Litigation Trust Fund
20 without regard to any fiscal year limitations.

21 Lease payments may be made by the Department of Central
22 Management Services under the sale and leaseback provisions of
23 Section 7.4 of the State Property Control Act with respect to
24 the James R. Thompson Center and the Elgin Mental Health Center
25 and surrounding land from appropriations for that purpose
26 without regard to any fiscal year limitations.

1 Lease payments may be made under the sale and leaseback
2 provisions of Section 7.5 of the State Property Control Act
3 with respect to the Illinois State Toll Highway Authority
4 headquarters building and surrounding land without regard to
5 any fiscal year limitations.

6 (c) Further, payments may be made by the Department of
7 Public Health and the Department of Human Services (acting as
8 successor to the Department of Public Health under the
9 Department of Human Services Act) from their respective
10 appropriations for grants for medical care to or on behalf of
11 persons suffering from chronic renal disease, persons
12 suffering from hemophilia, rape victims, and premature and
13 high-mortality risk infants and their mothers and for grants
14 for supplemental food supplies provided under the United States
15 Department of Agriculture Women, Infants and Children
16 Nutrition Program, for any fiscal year without regard to the
17 fact that the services being compensated for by such payment
18 may have been rendered in a prior fiscal year.

19 (d) The Department of Public Health and the Department of
20 Human Services (acting as successor to the Department of Public
21 Health under the Department of Human Services Act) shall each
22 annually submit to the State Comptroller, Senate President,
23 Senate Minority Leader, Speaker of the House, House Minority
24 Leader, and the respective Chairmen and Minority Spokesmen of
25 the Appropriations Committees of the Senate and the House, on
26 or before December 31, a report of fiscal year funds used to

1 pay for services provided in any prior fiscal year. This report
2 shall document by program or service category those
3 expenditures from the most recently completed fiscal year used
4 to pay for services provided in prior fiscal years.

5 (e) The Department of Healthcare and Family Services, the
6 Department of Human Services (acting as successor to the
7 Department of Public Aid), and the Department of Human Services
8 making fee-for-service payments relating to substance abuse
9 treatment services provided during a previous fiscal year shall
10 each annually submit to the State Comptroller, Senate
11 President, Senate Minority Leader, Speaker of the House, House
12 Minority Leader, the respective Chairmen and Minority
13 Spokesmen of the Appropriations Committees of the Senate and
14 the House, on or before November 30, a report that shall
15 document by program or service category those expenditures from
16 the most recently completed fiscal year used to pay for (i)
17 services provided in prior fiscal years and (ii) services for
18 which claims were received in prior fiscal years.

19 (f) The Department of Human Services (as successor to the
20 Department of Public Aid) shall annually submit to the State
21 Comptroller, Senate President, Senate Minority Leader, Speaker
22 of the House, House Minority Leader, and the respective
23 Chairmen and Minority Spokesmen of the Appropriations
24 Committees of the Senate and the House, on or before December
25 31, a report of fiscal year funds used to pay for services
26 (other than medical care) provided in any prior fiscal year.

1 This report shall document by program or service category those
2 expenditures from the most recently completed fiscal year used
3 to pay for services provided in prior fiscal years.

4 (g) In addition, each annual report required to be
5 submitted by the Department of Healthcare and Family Services
6 under subsection (e) shall include the following information
7 with respect to the State's Medicaid program:

8 (1) Explanations of the exact causes of the variance
9 between the previous year's estimated and actual
10 liabilities.

11 (2) Factors affecting the Department of Healthcare and
12 Family Services' liabilities, including but not limited to
13 numbers of aid recipients, levels of medical service
14 utilization by aid recipients, and inflation in the cost of
15 medical services.

16 (3) The results of the Department's efforts to combat
17 fraud and abuse.

18 (h) As provided in Section 4 of the General Assembly
19 Compensation Act, any utility bill for service provided to a
20 General Assembly member's district office for a period
21 including portions of 2 consecutive fiscal years may be paid
22 from funds appropriated for such expenditure in either fiscal
23 year.

24 (i) An agency which administers a fund classified by the
25 Comptroller as an internal service fund may issue rules for:

26 (1) billing user agencies in advance for payments or

1 authorized inter-fund transfers based on estimated charges
2 for goods or services;

3 (2) issuing credits, refunding through inter-fund
4 transfers, or reducing future inter-fund transfers during
5 the subsequent fiscal year for all user agency payments or
6 authorized inter-fund transfers received during the prior
7 fiscal year which were in excess of the final amounts owed
8 by the user agency for that period; and

9 (3) issuing catch-up billings to user agencies during
10 the subsequent fiscal year for amounts remaining due when
11 payments or authorized inter-fund transfers received from
12 the user agency during the prior fiscal year were less than
13 the total amount owed for that period.

14 User agencies are authorized to reimburse internal service
15 funds for catch-up billings by vouchers drawn against their
16 respective appropriations for the fiscal year in which the
17 catch-up billing was issued or by increasing an authorized
18 inter-fund transfer during the current fiscal year. For the
19 purposes of this Act, "inter-fund transfers" means transfers
20 without the use of the voucher-warrant process, as authorized
21 by Section 9.01 of the State Comptroller Act.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23 Section 92. The Covering ALL KIDS Health Insurance Act is
24 amended by changing Section 20 as follows:

1 (215 ILCS 170/20)

2 (Section scheduled to be repealed on July 1, 2011)

3 Sec. 20. Eligibility.

4 (a) To be eligible for the Program, a person must be a
5 child:

6 (1) who is a resident of the State of Illinois; and

7 (2) who is ineligible for medical assistance under the
8 Illinois Public Aid Code or benefits under the Children's
9 Health Insurance Program Act; and

10 (3) either (i) who has been without health insurance
11 coverage for a period set forth by the Department in rules,
12 but not less than 6 months during the first month of
13 operation of the Program, 7 months during the second month
14 of operation, 8 months during the third month of operation,
15 9 months during the fourth month of operation, 10 months
16 during the fifth month of operation, 11 months during the
17 sixth month of operation, and 12 months thereafter, (ii)
18 whose parent has lost employment that made available
19 affordable dependent health insurance coverage, until such
20 time as affordable employer-sponsored dependent health
21 insurance coverage is again available for the child as set
22 forth by the Department in rules, (iii) who is a newborn
23 whose responsible relative does not have available
24 affordable private or employer-sponsored health insurance,
25 or (iv) who, within one year of applying for coverage under
26 this Act, lost medical benefits under the Illinois Public

1 Aid Code or the Children's Health Insurance Program Act.

2 An entity that provides health insurance coverage (as
3 defined in Section 2 of the Comprehensive Health Insurance Plan
4 Act) to Illinois residents shall provide health insurance data
5 match to the Department of Healthcare and Family Services for
6 the purpose of determining eligibility for the Program under
7 this Act.

8 The Department of Healthcare and Family Services, in
9 collaboration with the Department of Financial and
10 Professional Regulation, Division of Insurance, shall adopt
11 rules governing the exchange of information under this Section.
12 The rules shall be consistent with all laws relating to the
13 confidentiality or privacy of personal information or medical
14 records, including provisions under the Federal Health
15 Insurance Portability and Accountability Act (HIPAA).

16 (b) The Department shall monitor the availability and
17 retention of employer-sponsored dependent health insurance
18 coverage and shall modify the period described in subdivision
19 (a)(3) if necessary to promote retention of private or
20 employer-sponsored health insurance and timely access to
21 healthcare services, but at no time shall the period described
22 in subdivision (a)(3) be less than 6 months.

23 (c) The Department, at its discretion, may take into
24 account the affordability of dependent health insurance when
25 determining whether employer-sponsored dependent health
26 insurance coverage is available upon reemployment of a child's

1 parent as provided in subdivision (a) (3).

2 (d) A child who is determined to be eligible for the
3 Program shall remain eligible for 12 months, provided that the
4 child maintains his or her residence in this State, has not yet
5 attained 19 years of age, and is not excluded under subsection
6 (e).

7 (e) A child is not eligible for coverage under the Program
8 if:

9 (1) the premium required under Section 40 has not been
10 timely paid; if the required premiums are not paid, the
11 liability of the Program shall be limited to benefits
12 incurred under the Program for the time period for which
13 premiums have been paid; if the required monthly premium is
14 not paid, the child is ineligible for re-enrollment for a
15 minimum period of 3 months; re-enrollment shall be
16 completed before the next covered medical visit, and the
17 first month's required premium shall be paid in advance of
18 the next covered medical visit; or

19 (2) the child is an inmate of a public institution or
20 an institution for mental diseases.

21 (e-5) The Department may not expand eligibility for the
22 Program before July 1, 2012.

23 (f) The Department shall adopt eligibility rules,
24 including, but not limited to: rules regarding annual renewals
25 of eligibility for the Program; rules providing for
26 re-enrollment, grace periods, notice requirements, and hearing

1 procedures under subdivision (e)(1) of this Section; and rules
2 regarding what constitutes availability and affordability of
3 private or employer-sponsored health insurance, with
4 consideration of such factors as the percentage of income
5 needed to purchase children or family health insurance, the
6 availability of employer subsidies, and other relevant
7 factors.

8 (Source: P.A. 94-693, eff. 7-1-06.)

9 Section 94. The Illinois Public Aid Code is amended by
10 adding Section 5-1.05 as follows:

11 (305 ILCS 5/5-1.05 new)

12 Sec. 5-1.05. No expansion of eligibility or new programs.
13 The Department of Healthcare and Family Services may not expand
14 eligibility for medical assistance under this Article,
15 including eligibility for FamilyCare under paragraph 15 of
16 Section 5-2, before July 1, 2012, nor may the Department create
17 any new program of medical assistance under this Article before
18 that date.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."